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Attorneys for Complainant Utah Insurance Department

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF UTAH

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UTAH INSURANCE DEPARTMENT,  Complainant,  vs.  AMERICAN FAMILY MUTUAL INSURANCE COMPANY,  Respondent.	FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER  Docket No. 2017-085 PC Enforcement No. 3935  Lisa Watts Baskin Presiding Officer
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Complainant Utah Insurance Department and Respondent American Family Mutual Insurance Company have stipulated to entry of the following Findings of Fact, Conclusions of Law, and Order. Based on that stipulation, and good cause appearing, the Presiding Officer makes and enters the following:

**FINDINGS OF FACT**

1. Respondent is an insurer domiciled in Wisconsin and authorized to do business in Utah.

2. Between September 2013 and August 2016, Respondent mailed to 43,903

Utah policyholders policy endorsements that contained the following language:

Matching of Undamaged Property. We will not pay to repair or replace undamaged property due to mismatch between undamaged material and new material used to repair or replace damaged material because of: a. fading, oxidation, weathering differences; b. wear and tear, marring, scratching, deterioration; or c. obsolescence or discontinuation. However, when a loss requires replacement or repair of items and the repaired or replaced items do not match in color, texture, or size, we will repair or replace the items so as to conform to a reasonably uniform appearance. We do not cover the loss in value to any property due to mismatch between undamaged material and new material used to repair or replace damaged material.

### **CONCLUSIONS OF LAW**

1. The Utah Insurance Commissioner has jurisdiction over Respondent and over this matter.

2. The language set forth in paragraph 2 above was misleading, unfair, and not in the public interest pursuant to Utah Code § 31A-23a-201(3)(a)(i).

3. The proper penalty for Respondent's violation of Utah Code § 31A-23a-201(3)(a)(i) is \$39,400.

### **ORDER**

Based on the foregoing Findings of Fact and Conclusions of Law, it is ordered:


1. Respondent shall pay a penalty of \$39,400 for the violations of Utah insurance law set forth above.

2. Respondent shall pay the penalty within 30 days of the date of signing this order.

3. Respondent shall commit no further violations of the laws referenced in the Conclusions of Law.

DATED this 21<sup>st</sup> day of September, 2017.

TODD E. KISER  
Utah Insurance Commissioner

  
LISA WATTS BASKIN  
Presiding Officer


**NOTICE TO RESPONDENT**

You are hereby notified that a failure to obey an Order of the Commissioner may subject you to further penalties, including forfeitures of up to \$5,000 per violation and the suspension or revocation of your license and the filing of an action in district court, which may impose forfeitures of up to \$10,000 per day for continued violation. You are further notified that other jurisdictions in which you may be licensed may require that you report this action to them.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this date a true and correct copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER was emailed to the following: David P. Spahos, Representative of Respondent, at dpsahos@amfam.com.

Dated: September 21<sup>st</sup>, 2017.

  
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Jeanne Mitchell  
Utah Insurance Department  
State Office Building, Room 3110  
Salt Lake City, UT 84114-6901



## Insurance Department

TODD E. KISER  
*Insurance Commissioner*

### State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

### UTAH Invoice - Original

STACY NAMIO  
AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I.  
6000 AMERICAN PKWY  
MADISON WI 53783-0001

Printed Date: September 21, 2017  
Invoice Date: September 21, 2017  
Balance Due: \$39,400.00  
Due Date: October 23, 2017  
Invoice ID: 971334  
Payor ID: 2132

Date	Item Description	Amount	
09-21-2017	Monetary Penalty Company	\$39,400.00	DKT# 2017-085 PC E-CASE #3935

No Adjustments

No Payments

**Balance Amount Due \$39,400.00**

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### UTAH Invoice - Original

PREFERRED METHOD – Pay online at:  
<https://secure.utah.gov/ips/uidrenewal>

Or Make check payable to: Utah Insurance Department  
Send payment to:

Utah Insurance Department  
3110 State Office Building  
Salt Lake City, UT 84114-6901

Invoice Date: September 21, 2017  
Balance Due: \$39,400.00  
Due Date: October 23, 2017  
Invoice ID: 971334  
Payor ID: 2132

If a payor chooses to make payment by paper check, there will be a \$25 non-electronic payment processing fee. The payor must also detach the invoice voucher and include it with payment.